

AMENDED IN SENATE JULY 1, 2005

AMENDED IN SENATE JUNE 16, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1718**

**Introduced by Assembly Member Mountjoy**

February 22, 2005

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An act to amend Section 51182 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to forestry and fire protection.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1718, as amended, Mountjoy. Forestry and fire prevention: screens.

(1) Existing law requires any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by a local agency, to take specified actions to prevent fires including, among other things, providing and maintaining at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel.

Existing law also requires that a person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, take specified actions to prevent fires, including, among other things, providing and maintaining a screen over the outlet of

every chimney or stovepipe that is attached to a fireplace, stove, or other device that burns any solid or liquid fuel, and requires that the screen be constructed of nonflammable material with openings of not more than 1/2 inch.

This bill would delete those provisions relative to providing and maintaining screens.

The bill would require the State Fire Marshal, not later than July 1, 2006, to develop and submit to the California Building Standards Commission for adoption and approval, building regulations that ~~amend~~ *strengthen and improve* existing requirements in the California Building Standards Code governing the location of screens and required screen mesh size for purposes of fire protection.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 51182 of the Government Code is  
2 amended to read:

3 51182. (a) Any person who owns, leases, controls, operates,  
4 or maintains any occupied dwelling or occupied structure in,  
5 upon, or adjoining any mountainous area, forest-covered land,  
6 brush-covered land, grass-covered land, or any land that is  
7 covered with flammable material, which area or land is within a  
8 very high fire hazard severity zone designated by the local  
9 agency pursuant to Section 51179, shall at all times do all of the  
10 following:

11 (1) Maintain around and adjacent to the occupied dwelling or  
12 occupied structure a firebreak made by removing and clearing  
13 away, for a distance of not less than 30 feet on each side thereof  
14 or to the property line, whichever is nearer, all flammable  
15 vegetation or other combustible growth. This paragraph does not  
16 apply to single specimens of trees, ornamental shrubbery, or  
17 similar plants that are used as ground cover, if they do not form a  
18 means of rapidly transmitting fire from the native growth to any  
19 dwelling or structure.

20 (2) Maintain around and adjacent to the occupied dwelling or  
21 occupied structure additional fire protection or firebreaks made  
22 by removing all brush, flammable vegetation, or combustible  
23 growth that is located within 100 feet from the occupied dwelling

1 or occupied structure or to the property line, or at a greater  
2 distance if required by state law, or local ordinance, rule, or  
3 regulation. This section does not prevent an insurance company  
4 that insures an occupied dwelling or occupied structure from  
5 requiring the owner of the dwelling or structure to maintain a  
6 firebreak of more than 100 feet around the dwelling or structure  
7 if a hazardous condition warrants such a firebreak of a greater  
8 distance. Grass and other vegetation located more than 30 feet  
9 from the dwelling or structure and less than 18 inches in height  
10 above the ground may be maintained where necessary to stabilize  
11 the soil and prevent erosion.

12 (3) Remove that portion of any tree that extends within 10 feet  
13 of the outlet of any chimney or stovepipe.

14 (4) Maintain any tree adjacent to or overhanging any building  
15 free of dead or dying wood.

16 (5) Maintain the roof of any structure free of leaves, needles,  
17 or other dead vegetative growth.

18 (6) Prior to constructing a new dwelling or structure that will  
19 be occupied or rebuilding an occupied dwelling or occupied  
20 structure damaged by a fire in that zone, the construction or  
21 rebuilding of which requires a building permit, the owner shall  
22 obtain a certification from the local building official that the  
23 dwelling or structure, as proposed to be built, complies with all  
24 applicable state and local building standards, including those  
25 described in subdivision (b) of Section 51189, and shall provide  
26 a copy of the certification, upon request, to the insurer providing  
27 course of construction insurance coverage for the building or  
28 structure. Upon completion of the construction or rebuilding, the  
29 owner shall obtain from the local building official, a copy of the  
30 final inspection report that demonstrates that the dwelling or  
31 structure was constructed in compliance with all applicable state  
32 and local building standards, including those described in  
33 subdivision (b) of Section 51189, and shall provide a copy of the  
34 report, upon request, to the property insurance carrier that insures  
35 the dwelling or structure.

36 (b) A person is not required under this section to maintain any  
37 clearing on any land if that person does not have the legal right to  
38 maintain the clearing, nor is any person required to enter upon or  
39 to damage property that is owned by any other person without the  
40 consent of the owner of the property.

SEC. 2. Section 4291 of the Public Resources Code is amended to read:

4291. A person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, shall at all times do all of the following:

(a) Maintain around and adjacent to the building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side of the building or structure or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

(b) Maintain around and adjacent to the building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the building or structure or to the property line or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures a building or structure from requiring the owner of the building or structure to maintain a firebreak of more than 100 feet around the building or structure. Grass and other vegetation located more than 30 feet from the building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(c) Remove that portion of any tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(d) Maintain any tree adjacent to or overhanging a building free of dead or dying wood.

(e) Maintain the roof of a structure free of leaves, needles, or other dead vegetative growth.

(f) Prior to constructing a new building or structure or rebuilding a building or structure damaged by a fire in such an area, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be

1 built, complies with all applicable state and local building  
2 standards, including those described in subdivision (b) of Section  
3 51189 of the Government Code, and shall provide a copy of the  
4 certification, upon request, to the insurer providing course of  
5 construction insurance coverage for the building or structure.  
6 Upon completion of the construction or rebuilding, the owner  
7 shall obtain from the local building official, a copy of the final  
8 inspection report that demonstrates that the dwelling or structure  
9 was constructed in compliance with all applicable state and local  
10 building standards, including those described in subdivision (b)  
11 of Section 51189 of the Government Code, and shall provide a  
12 copy of the report, upon request, to the property insurance carrier  
13 that insures the dwelling or structure.

14 (g) Except as provided in Section 18930 of the Health and  
15 Safety Code, the director may adopt regulations exempting  
16 structures with exteriors constructed entirely of nonflammable  
17 materials, or conditioned upon the contents and composition of  
18 same, he or she may vary the requirements respecting the  
19 removing or clearing away of flammable vegetation or other  
20 combustible growth with respect to the area surrounding those  
21 structures.

22 No exemption or variance shall apply unless and until the  
23 occupant thereof, or if there is not an occupant, the owner  
24 thereof, files with the department, in a form as the director shall  
25 prescribe, a written consent to the inspection of the interior and  
26 contents of the structure to ascertain whether this section and the  
27 regulations adopted under this section are complied with at all  
28 times.

29 (h) The director may authorize the removal of vegetation that  
30 is not consistent with the standards of this section. The director  
31 may prescribe a procedure for the removal of that vegetation and  
32 make the expense a lien upon the building, structure, or grounds,  
33 in the same manner that is applicable to a legislative body under  
34 Section 51186 of the Government Code.

35 (i) As used in this section, "person" means a private  
36 individual, organization, partnership, limited liability company,  
37 or corporation.

38 SEC. 3. Not later than July 1, 2006, the State Fire Marshal  
39 shall develop and submit to the California Building Standards  
40 Commission for adoption and approval, building regulations that

1 ~~amend~~ *strengthen and improve* existing requirements in the  
2 California Building Standards Code governing the location of  
3 screens and required screen mesh size for purposes of fire  
4 prevention.

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